

# SENATE BILL REPORT

## SB 5627

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As of January 25, 2022

**Title:** An act relating to injured workers' rights during independent medical examinations.

**Brief Description:** Concerning injured workers' rights during independent medical examinations.

**Sponsors:** Senators Stanford, Conway, Keiser, Kuderer, Lovelett, Lovick and Wilson, C..

**Brief History:**

**Committee Activity:** Labor, Commerce & Tribal Affairs: 1/26/22.

**Brief Summary of Bill**

- Allows an injured worker, at the worker's cost, to record certain examinations and to have one adult present to observe.
- Provides that the recording and observer may not interfere with the examination.
- Requires the worker, upon request, to provide a copy to the Department of Labor and Industries or the self-insurer.
- Provides that any material alteration of the recording by the injured worker may be subject to repayment of workers' compensation benefits.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

**Staff:** Susan Jones (786-7404)

**Background:** Worker's Compensation—General. Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to workers' compensation benefits, which may include medical, temporary time-loss, vocational rehabilitation benefits, and permanent disabilities benefits. "Occupational disease" means a

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disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title. The Department of Labor and Industries (L&I) administers the state's workers' compensation system.

Required Exams. Whenever L&I or the self-insurer deems it necessary to make a decision regarding claim allowance or reopening; resolve a new medical issue, an appeal, or case progress; or evaluate the worker's permanent disability or work restriction, a worker shall submit to an independent medical examination (IME) by a physician or physicians selected by L&I, with the report provided to the person ordering the IME, the attending physician, and the injured worker.

The IME must be at a place reasonably convenient to the injured worker, or alternatively use telemedicine if L&I determines telemedicine is appropriate for the IME. "Reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. L&I must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

L&I or the self-insurer must provide the physician performing an IME with all relevant medical records from the worker's claim file. The director of L&I may charge the cost of the IME to the self-insurer or to the medical aid fund. The cost of the IME must include payment to the worker of the reasonable expenses.

"Examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of L&I or the self-insurer or by order of the Board of Industrial Insurance Appeals (BIIA).

**Summary of Bill:** An injured worker, at the worker's cost, may record an IME by audio, video, or both. The worker may have one adult, except the worker's legal representative, present to observe the IME. The worker must take reasonable steps to ensure the recording equipment does not interfere with the IME. The observer must be unobtrusive and not interfere with the IME. The worker, upon request, must provide a copy to L&I or the self-insurer within 14 days of receiving the request. Any material alteration of the recording by the injured worker may subject the worker to repayment of workers' compensation benefits. The recordings are deemed confidential.

BIIA order is removed from the definition of examination for requesting an IME.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.